

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HORIZON STEVEDORING, INC.,	:	
Plaintiff/Counterclaim Defendant,	:	CIVIL ACTION
	:	No. 22-711
v.	:	
	:	
ROYAL WHITE CEMENT, INC.,	:	
Defendant/Counterclaim Plaintiff.	:	
	:	
v.	:	
	:	
JOHN BROWN,	:	
Counterclaim Defendant	:	

ORDER

AND NOW, this 7th day of November 2022, upon consideration of the Motion for Partial Judgment on the Pleadings by Counterclaim Defendants Horizon Stevedoring, Inc. and John Brown (ECF 12), Counterclaim Plaintiff Royal White Cement’s Response (ECF 13) and Counterclaim Defendants’ Reply (ECF 16), and consistent with the accompanying Memorandum of Law, it is **ORDERED** that Counterclaim Defendants’ Motion is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. The Motion is **DENIED** with respect to Count II—RWC’s counterclaim for unjust enrichment—and with respect to Counts III and IV of RWC’s Counterclaim to the extent they assert claims for negligent misrepresentation;
2. The Motion is **GRANTED** with respect to Count V—RWC’s counterclaim for conversion—and with respect to Counts III and IV of RWC’s Counterclaim to the extent they assert claims for fraudulent misrepresentation;
3. Counts III and IV of RWC’s Counterclaim are **DISMISSED** to the extent they assert claims for fraudulent misrepresentation with **leave to amend** if RWC can

plead facts sufficient to meet the requirements of Rule 9(b); and

4. Count V is **DISMISSED with prejudice**.

RWC shall file an Amended Counterclaim, if any, or notify the Court that it will proceed on its remaining counterclaims **on or before Monday, November 21, 2022**.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "Berle M. Schiller", followed by a horizontal line.

Berle M. Schiller, J.